

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE
WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF
NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: OMAHA DIST DRO

FILE NUMBER: 200580465

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Date:
 At the project site Y Date: July 25, 2005

PROJECT LOCATION INFORMATION:

State: CO

County: Arapahoe

Center coordinates of site by latitude & longitudinal coordinates: 39 37 44.9330, 104 44 26.8239

Approximate size of site/property (including uplands & in acres): 120

Name of waterway or watershed: Drainage to a tributary to West Toll Gate Creek

SITE CONDITIONS: Agricultural

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	x								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?					x
Is used to irrigate crops sold in interstate commerce?					

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Approved X Preliminary

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

The above-mentioned wetlands and their drainages were determined to be non-jurisdictional based on that fact that upland inclusions are located between the wetlands and downstream jurisdictional tributary. There is no evidence that flows from the wetlands traverse these upland inclusions on a 1 to 2 year frequency. Using the USGS Water Resources Investigation Report 99-4190, Analysis of the Magnitude and Frequency of Floods in Colorado, to predict such flows is not possible, since the drainage basin is less than 5 square miles. Since there are upland inclusions within the drainages between the wetlands in question and the tributary to which they flow, these wetlands are neither adjacent to nor surface connected to an interstate waters. Therefore, these wetlands are isolated and non-jurisdictional.

